



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/994,887 | 11/28/2001 | Tae-Jin Lee | Q65663 | 8047 |

7590 11/30/2005

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
Suite 800
2100 Pennsylvania Avenue N.W.
Washington, DC 20037-3213

| |
|----------|
| EXAMINER |
|----------|

NGUYEN, STEVEN H D

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2665

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,887

Applicant(s)

LEE ET AL.

Examiner

Steven HD Nguyen

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 3,4,7,8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-6 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Aweya (USP 6549517).

Regarding claims 1, 5 and 9, Aweya discloses an apparatus for analyzing performance of an asynchronous transfer mode (ATM) switch comprising a traffic detecting portion for detecting traffic of constant bit rate connection type data and available bit rate connection type data input to the ATM switch installed in a communication network for processing a data circuit switching (Fig 2 and col. 6, lines 15-37 for detecting the CBR and ABR); and a performance analyzing portion for calculating a processing performance with respect to the constant bit rate connection type data and the available bit rate connection type data according to information related to the detected traffic of the constant bit rate connection type data and the available bit rate connection type data (Fig 2, Ref 126 for determining the performance of the switch based on the measurement values such arrival rates of CBR and ABR) and a traffic control portion for controlling data processing of the ATM switch according to values analyzed by the performance analyzing portion (Fig 2, ref 126 for determining transmission rate of the source based on the calculated information in order to increase ABR traffic).

Art Unit: 2665

Regarding claims 2, 6 and 10, Aweya discloses the traffic detecting portion calculates and outputs to the performance analyzing portion arrival rates per second of the constant bit rate connection type data and the available bit rate connection type data (Fig 5, ref 2002 and 204).

Allowable Subject Matter

3. Claims 3, 7-8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As claim 8, the prior arts fails to disclose a data storing portion for storing values analyzed by the performance analyzing portion; an inputting portion for inputting processing performance values desired for the constant bit rate connection type data and the available bit rate connection type data; and a performance determining portion for calculating a processing capacity of the ATM switch that satisfies parameters input from the inputting portion, by using the data stored in the data storing portion

As claims 3, 7 and 11, the prior arts fails to disclose the performance analyzing portion calculates a connection denial rate of the constant bit rate connection type data and an average delay time of the available bit rate connection type data from a value output from the traffic detecting portion, a selected average occupancy time of the constant bit rate connection type data in the ATM switch, and an average data size of the available bit rate connection type data to be transmitted.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aweya (USP 6584111) discloses a method and system for determining the arrival rates of ABR and CBR which are used to determine if the switch is in congested state or not. If congested, notifying the source.

Fordor (USP 6788646) discloses a method and system for determining the arrival rates of ABR and CBR which are used to determine if the switch is in congested state or not.

Zhao (USP 6144639) discloses a method and system for congestion control in ATM network.

Iuoras (USP 6445707) discloses a method and system for congestion control in ATM network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2665

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen
Primary Examiner
Art Unit 2665
November 25, 2005